

JANUARY 7, 2008MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION****SAID ALJUNEIDI,****Plaintiff,****v.****CASE NO.****08 C 99****RUTH A. DOROCHOFF, Chicago District
Director of the Citizenship and Immigration
Services; MICHAEL CHERTOFF, Secretary
of the U.S. Department of Homeland Security;
and ROBERT S. MUELLER, III, Director
of the Federal Bureau of Investigation,****Defendants.****JUDGE NORDBERG
MAGISTRATE JUDGE DENLOW****COMPLAINT FOR MANDAMUS**

Plaintiff SAID ALJUNEIDI, by and through his undersigned attorney, for his Complaint for Mandamus against Defendants, RUTH A. DOROCHOFF, District Director of the Chicago Office for the U.S. Citizenship and Immigration Services; MICHAEL CHERTOFF, Secretary of Homeland Security; and ROBERT S. MUELLER, III, Director of the Federal Bureau of Investigation, allege as follows:

Nature of the Case and Parties

1. This is a civil action to compel the Chicago District Director of the Office for Citizenship and Immigration Services to adjudicate Plaintiff's Form I-485 Application to Adjust Status ("Application") that was filed on November 14, 2003. (*See Exhibit A-1*).

2. Plaintiff SAID ALJUNEIDI was born in Hebron, Israel on August 5, 1966. Mr. Aljuneidi qualified for his Application as the spouse of a United States citizen, Mrs. Neamat Jibreen (“Mrs. Aljuneidi”). Mr. and Mrs. Aljuneidi were married on September 13, 2003, and they currently reside together at 5633 Edge Lake Drive in Oak Lawn, Illinois.
3. Defendants are the District Director of the Chicago Office for Citizenship and Immigration Services (the “Service”), the Secretary of the Department of Homeland Security, and the Director of the Federal Bureau of Investigation. They are being sued in their official capacity.

Jurisdiction and Venue

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1361, and 2201 *et seq.*, and 5 U.S.C. § 701 *et seq.*
5. Venue is proper in this District pursuant to 28 U.S.C. §1391(e) because the events and omissions giving rise to this matter occurred in this District and because Plaintiff resides in this District.

Statement of the Case

6. On November 14, 2003, Mrs. Aljuneidi filed an I-130 Petition for Alien Relative (the “Petition”) on behalf of Mr. Aljuneidi concurrently with Mr. Aljuneidi’s I-485 Application to Adjust Status. Mr. Aljuneidi’s application is based on his marriage to his United States citizen spouse. (*See Exhibit A-1 and A-2*).

7. After filing the Petition and Application, Plaintiff attended his Adjustment of Status interview with his wife and previous counsel on December 9, 2004 in Chicago, Illinois. (See **Exhibit A-3**). At the interview with Officer Podgorni, the officer requested additional documents; namely, the 2003 W-2 for the co-sponsor. With the assistance of counsel, Mr. Aljuneidi timely responded to the request.
8. Although the Application has been pending for over four years, and despite Mr. Aljuneidi's timely compliance with the Service's request, the Service has not yet adjudicated the Application. Plaintiff and his attorneys have repeatedly filed inquiries with the Service to determine the status of the Application and to request that the Service adjudicate the Application. (See **Exhibits B-1 to D-8**).
9. Plaintiff began filing inquiries on June 6, 2005; over one and one-half years after his application was filed in November 2003. (See **Exhibit B-1**). After the Service failed to respond to the inquiry, Mr. Aljuneidi requested the assistance of the Office of the Honorable Richard J. Durbin, U.S. Senator of Illinois, in August 2005. (See **Exhibit B-2**). The Service indicated that the case is "under further review by the adjudicating officer along with assistance of other agencies...." (See **Exhibit B-3**).
10. One year later, in June 2006, Mr. Aljuneidi retained new counsel who then filed additional inquiries. (See **Exhibit C-1**). In 2006, Plaintiff personally filed three more inquiries in the months of July, September, and December. (See **Exhibits C-2 to C-4**). The Service indicated in their responses that "additional review" was the cause for the prolonged delay. (See **Exhibits C-2 to C-4**).
11. In February 2007, Mr. Aljuneidi retained the undersigned counsel to assist in receiving the status of his case and a decision on his application. On March 7, 2007, Plaintiff's

counsel submitted another inquiry, to which the Service requested additional information to process the request. (See **Exhibits D-1 and D-2**). The Service issued its response on June 7, 2007, indicating that the “case is under further review by an adjudicator.” (See **Exhibit D-3**). At this point, the case had been pending over three and one-half years.

12. In addition to Plaintiff’s counsel, the Office of Senator Durbin filed an additional inquiry on behalf of Plaintiff in May 2007. (See **Exhibit D-4**). The Service indicated in its response that the case was still pending and had been forwarded to the “Exams Unit,” which would notify Mr. Aljuneidi of “any pending action.” (See **Exhibit D-5**).
13. Also in 2007, Mr. Aljuneidi filed inquiries on his own behalf. In May 2007, Plaintiff filed an inquiry to which the Service responded in June 2007, indicating that Mr. Aljuneidi’s “petition or application is pending at this time and has been pending at this time and has been transferred to the USCIS office at Chicago, IL.” (See **Exhibit D-6**).
14. In September 2007, nearly four years since he filed his application, Mr. Aljuneidi filed another inquiry through counsel. (See **Exhibit D-7**). The Service responded and indicated that Mr. Aljuneidi’s “case has been delayed because the required investigation into his background is still in progress.” (See **Exhibit D-8**).
15. As the above shows, Plaintiff has repeatedly filed inquiries and maintained correspondence with the Service to adjudicate his Application. Plaintiff filed his Application on November 14, 2003 and his Application has yet to be adjudicated.
16. On information and belief, the normal period prescribed by Defendants to adjudicate an I-485 Application to Adjust Status is six months. (See **Exhibit E**). To date, fifty months (over four years) have passed since the Service received Plaintiff’s Application. Thirty-

seven months (over three years) have passed since Plaintiff had his Adjustment of Status interview in December 9, 2004.

Claim for Relief

17. Defendants, in violation of the Administrative Procedures Act, 5 U.S.C. § 701 *et seq.*, are unlawfully withholding or unreasonably delaying action on Plaintiff's application and have failed to carry out the adjudicative functions delegated to them by law with regard to Plaintiff's case.
18. Defendants willfully and unreasonably have delayed in, and have refused to adjudicate Plaintiff's Application, thereby, depriving Plaintiff of his rights under 5 U.S.C. § 555(b) to the adjudication of his Application in a reasonable time.
19. Defendants owe Plaintiff the duty to act on his Petition and Application within a reasonable time and have unreasonably failed to perform that duty.
20. Plaintiff has made numerous status inquiries in an attempt to secure adjudication of his application.
21. Plaintiff has exhausted any administrative remedies that may exist, and has not caused or contributed to the Service's delay in adjudicating his Application.

Prayer for Relief

WHEREFORE Plaintiff prays that this Court:

- A. Accept jurisdiction and maintain continuing jurisdiction of this Action.
- B. Compel Defendant FBI to issue the results of a criminal background and/or name check relating to Plaintiff's Petition and Application to the Service and the Court within sixty (60) days.
- C. Compel Defendants Service and District Director to adjudicate Plaintiff's Petition and Application within sixty (60) days.
- D. Grant such other and further relief, as this Court deems proper under the circumstances.

Dated: January 3, 2008

s/ Robert C. Milla
Robert C. Milla

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Attorneys for Plaintiff

SAID ALJUNEIDI

EXHIBITS:

- Exhibits A-1 to A-3** Copies of Form I-797C Notices of Action, verifying the receipt date of November 14, 2003 for Plaintiff's Form I-485 Application to Adjust Status and Form I-130 Petition for Alien Relative. Copy of Form I-797 Notice of Action, indicating the date of Plaintiff's interview for his Application as December 9, 2004.
- Exhibits B-1 to B-3** Copies of correspondence and inquiries filed with the Service in 2005 regarding Plaintiff's application.
- Exhibits C-1 to C-4** Copies of correspondence and inquiries filed with the Service in 2006 regarding Plaintiff's application.
- Exhibits D-1 to D-8** Copies of correspondence and inquiries filed with the Service in 2007 regarding Plaintiff's application.
- Exhibit E** Copy of most recent application processing times for Chicago, Illinois Office, posted on December 14, 2007 by U.S. Citizenship and Immigration Services.